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TRANSMITTAL FORM

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Total Number of Pages in This Submission

59

Application Number

10/017,788

Filing Date

December 13, 2001

First Named Inventor

Nguyen, Quan

Art Unit

1641

Examiner Name

Counts, Gary W.

Attorney Docket Number

002558-064310US

ENCLOSURES (Check all that apply)

☐

Fee Transmittal Form

☐

Fee Attached

☐

Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☒

Extension of Time Request (2
copies)

☐

Express Abandonment Request

☒

Information Disclosure Statement
(with 4 refs.)

☐

Certified Copy of Priority
Document(s)

☐

Reply to Missing Parts/ Incomplete
Application

☐

Reply to Missing Parts
under 37 CFR 1.52 or 1.53

☐

Drawing(s)

☐

Licensing-related Papers

☐

Petition

☐

Petition to Convert to a
Provisional Application

☐

Power of Attorney, Revocation
Change of Correspondence Address

☐

Terminal Disclaimer

☐

Request for Refund

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CD, Number of CD(s) _____

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Landscape Table on CD

☐

After Allowance Communication to TC

☐

Appeal Communication to Board
of Appeals and Interferences

☐

Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

☐

Proprietary Information

☐

Status Letter

☒

Other Enclosure(s) (please identify
below):

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Remarks

The Commissioner is authorized to charge any additional fees to Deposit
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Townsend and Townsend and Crew LLP

Signature

Printed name

Joel G. Ackerman

Date

06/02/2006

Reg. No.

24,307

CERTIFICATE OF TRANSMISSION/MAILING

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Dana Kane

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06/02/2006

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PATENT
Docket No.: 002558-064310US
Client Ref. No.: BRP00097



On June 2, 2006

TOWNSEND and TOWNSEND and CREW LLP

By:


Dana Kane

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Quan NGUYEN

Patent No.:

Issued:

Application No.: 10/017,788

Filed: December 13, 2001

For: STANDARD DILUENT FOR
MULTIPLEX ASSAYS

Confirmation No.: 6103

Examiner: Counts, Gary W.

Art Unit: 1641

COMMUNICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the office Action dated December 8, 2005, Applicants respectfully request reconsideration and reexamination based on the comments herein.

In order to expedite prosecution, Applicants will forbear from repeating what has been set forth in the previous documents by way of background, and focus on the differences between the claimed invention and two references in the prior art. However, in so doing, Applicants have not ceased to make the other points previously raised, and will raise them again, if necessary in an appeal.

The following comments will focus on the two references- Williams et al. and Barrera et al., which were discussed in the previous communication.

The examiner comments that the distinctions made with respect to Williams et al. in the previous communication relate to processes by which the claimed products are produced and not to the products themselves and so are irrelevant to patentability of those products. However, the comments made previously do not relate processes but to the products themselves.

Williams et al. do not produce a diluent that is lacking in one or more target analytes. Williams et al. produce a composition that is totally lacking in all steroids, all but one of which are not target analytes. Williams et al. do not disclose a diluent for a multiplex process and do not carry out a multiplex process.

Barrera et al. simply do not disclose a composition lacking in multiple analytes. The examiner quotes the use of the phrase "interleukin-1B and tumor necrosis factor" as indicating a multiplex assay. However, this was not what was done in Barrera et al. - each analyte was assayed for separately. See, for instance, p. 100 "The blood compartment contained ¹²⁵I-labeled recombinant human IL-1 β or TNF...." (emphasis added). This reference throughout discloses only the use of a diluent lacking in one single cytokine, and never discloses a diluent lacking two or more cytokines. The word "and" in the citation by the examiner simply lumps the two assays together in one statement, but there was no assay conducted for multiple analytes.

Applicants submit, and continue to submit, that the claims are not obvious from the cited references, and request issuance of a Notice of Allowance.

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PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned.

Respectfully submitted,

Joel G. Ackerman
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